

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 107

HOUSE BILL 2109

AN ACT

AMENDING SECTION 8-134, ARIZONA REVISED STATUTES; RELATING TO ADOPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-134, Arizona Revised Statutes, is amended to
3 read:

4 8-134. Confidential intermediary

5 A. Any of the following persons may use the services of a confidential
6 intermediary who is listed with the court:

7 1. The adoptive parents of an adoptee who is at least eighteen years
8 of age or, if the adoptive parents are deceased, the adoptee's guardian.

9 2. An adoptee if the adoptee is ~~twenty-one or more~~ AT LEAST EIGHTEEN
10 years of age.

11 3. If an adoptee is deceased, the adoptee's spouse if the spouse is
12 the legal parent or guardian of any child of the adoptee.

13 4. If an adoptee is deceased, any progeny of the adoptee who is
14 ~~twenty-one or more~~ AT LEAST EIGHTEEN years of age.

15 5. Either of the birth parents of an adoptee.

16 6. If the birth parent of an adoptee is deceased, the parent of the
17 birth parent.

18 7. A biological sibling of the adoptee if the sibling is ~~twenty-one~~
19 ~~or more~~ AT LEAST EIGHTEEN years of age.

20 B. An adoption agency licensed by this state, the division or an
21 individual who meets the requirements adopted pursuant to subsections F and
22 G of this section may serve as a confidential intermediary.

23 C. Notwithstanding sections 8-120 and 8-121, a confidential
24 intermediary may inspect documents compiled pursuant to this article.
25 Documents include the court records, division records, agency records and
26 maternity home records. The confidential intermediary shall keep
27 confidential all information obtained during the course of the investigation.
28 The intermediary shall use confidential information only to arrange a contact
29 or share information between the person who initiates the search and the
30 person who is the subject of the search. A confidential intermediary shall
31 review the court record before making any contact with an adoptee to
32 determine if an affidavit has been filed pursuant to subsection E of this
33 section. EXCEPT AS PROVIDED PURSUANT TO SUBSECTION A, PARAGRAPHS 1, 2, 4 AND
34 7 AND SUBSECTION G OF THIS SECTION, a confidential intermediary shall not
35 contact persons under eighteen TWENTY-ONE years of age.

36 D. The confidential intermediary shall obtain written consent from the
37 person who initiated the search and the person who is the subject of the
38 search before arranging for the sharing of identifying information or a
39 contact between them. If the confidential intermediary discovers the subject
40 of the search is deceased or that the identity of the birth father was
41 unknown to or not revealed by the birth mother, the confidential intermediary
42 shall share this information with the person initiating the search. If the
43 confidential intermediary, after a diligent effort, is unable to locate the
44 subject of the search to obtain written consent to share information, the
45 confidential intermediary shall share this information with the person

1 initiating the search and prepare and place with the compiled documents a
2 written report describing search efforts. If the person who initiated the
3 search petitions the court to release identifying information, the court
4 shall review the report prepared by the confidential intermediary and shall
5 decide if the information may be released and in what manner the information
6 may be released if the court determines there is good cause.

7 E. An adoptive parent who has not informed an adoptee that the adoptee
8 was adopted may file an affidavit so stating with the court where the
9 adoption took place. The affidavit may be withdrawn at any time by the
10 adoptive parent. If an affidavit is a part of the court record, the
11 confidential intermediary shall not make contact with the adoptee unless the
12 adoptive parent withdraws the affidavit and grants permission in writing or
13 the adoptee has filed an affidavit stating that the adoptee knows about the
14 adoption and wishes to make contact with the birth parent.

15 F. A birth parent who has not informed the parent's biological
16 offspring of the existence of the adoptee may file an affidavit so stating
17 with the court where the adoption took place. The affidavit may be withdrawn
18 at any time by the birth parent. If an affidavit is a part of the court
19 record, the confidential intermediary shall not make contact with the
20 biological sibling unless the birth parent withdraws the affidavit and grants
21 permission in writing or the biological sibling has filed an affidavit
22 stating that the biological sibling knows about the adoptee and wishes to
23 make contact with the adoptee.

24 G. On receipt of a written statement from a physician that explains
25 in detail how a health condition may seriously affect the health of the
26 adoptee or a direct descendant of the adoptee, the court shall order the
27 confidential intermediary program to appoint a confidential
28 intermediary. The confidential intermediary shall make a diligent effort to
29 notify an adoptee who has attained eighteen years of age, an adoptive parent
30 or guardian of an adoptee who has not attained eighteen years of age or a
31 direct descendant of a deceased adoptee that the nonidentifying information
32 is available and shall be provided on written request.

33 H. On receipt of a written statement from a physician that explains
34 in detail why a serious health condition of the adoptee or a direct
35 descendant of the adoptee should be communicated to the birth parent or
36 biological sibling to enable the birth parent or biological sibling to make
37 an informed medical decision, the court shall order the confidential
38 intermediary program to appoint a confidential intermediary. The
39 confidential intermediary shall make A diligent effort to notify those
40 individuals that the nonidentifying information is available and shall be
41 provided on written request.

42 I. The Arizona supreme court shall administer the confidential
43 intermediary program. The court shall adopt rules and procedures necessary
44 to implement the program, including qualifications, required fees, minimum
45 standards for certification, training and standards of conduct of

1 confidential intermediaries, and shall establish the fees that may be charged
2 by a confidential intermediary.

3 J. A person shall not act as a confidential intermediary unless he THE
4 PERSON possesses a confidential intermediary certificate issued by the
5 supreme court. In order to be certified as a confidential intermediary a
6 person shall meet and maintain the minimum standards prescribed by this
7 section and the rules adopted by the supreme court.

8 K. In carrying out the provisions of this section the supreme court
9 shall require applicants for a confidential intermediary certificate to
10 furnish fingerprints and the supreme court shall obtain criminal history
11 record information pursuant to section 41-1750. The applicant for
12 certification shall pay a fee to the department of public safety to reimburse
13 the department of public safety for the cost of obtaining the applicant's
14 criminal history record information required by this section. The fee shall
15 not exceed the actual cost of obtaining the applicant's criminal history
16 record information.

17 L. The actual and reasonable cost to the agency, division or court of
18 providing information pursuant to the confidential intermediary program shall
19 be paid by the person requesting the services of a confidential intermediary.
20 If the juvenile court of a county is supplying the information, the actual
21 and reasonable costs shall be paid to the clerk of the court of that county
22 who shall transmit the monies to the county treasurer of that county for
23 deposit in the juvenile probation services fund to be utilized by the
24 juvenile court of that county for reimbursing the court for costs associated
25 with providing information pursuant to the confidential intermediary program.
26 If the division is supplying the information, the actual and reasonable costs
27 shall be paid to the division. If an agency is supplying the information,
28 the actual and reasonable costs shall be paid to the agency.

APPROVED BY THE GOVERNOR APRIL 28, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2003.

Passed the House February 24, 2008

Passed the Senate April 8, 2008

by the following vote: 59 Ayes,

by the following vote: 30 Ayes,

0 Nays, 1 Not Voting

0 Nays, 0 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Spencer L. Fyore
Chief Clerk of the House

Chaimin Billington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2109

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 23, 2003,

by the following vote: 57 Ayes,

2 Nays, 1 Not Voting

Mike I. Lopez
Speaker of the House
Norman L. Tyore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

23 day of April, 2003

at 11:44 o'clock A M.

Sanelsa Camirey
Secretary to the Governor

Approved this 28 day of

April, 2008,

at 3³⁵ o'clock P M.

Jon R. Norht
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28 day of April, 2003,

H.B. 2109

at 4:51 o'clock P M.
Janice H. Brewer
Secretary of State